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Attorneys for Plaintiff, MACKENZIE ANNE THOMA,
and on behalf of herself and all others similarly situated

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MACKENZIE ANNE THOMA, a.k.a.
KENZIE ANNE, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

VXN GROUP LLC, a Delaware limited
liability company; STRIKE 3
HOLDINGS, LLC, a Delaware limited
liability company; GENERAL MEDIA
SYSTEMS, LLC, a Delaware limited
liability company; MIKE MILLER, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 2:23-cv-04901-WLH
(AGRx)

*(Los Angeles County Superior Court,
Case No.: 23STCV08761)*

[Assigned to the Hon. Wesley L. Hsu]

**PLAINTIFF'S OBJECTIONS TO
EVIDENCE PROFFERED IN
SUPPORT OF DEFENDANTS'
NOTICE OF REMOVAL**

DATE: August 18, 2023

TIME: 1:00 p.m.

COURTRM: 9B

State Action Filed: April 20, 2023

Removal Date: June 21, 2023

Trial Date: None set

[Notice of Motion and Motion for
Remand; Declaration of Sarah Cohen;
and [Proposed] Order Filed
Concurrently Herewith]

1 Plaintiff Mackenzie Anne Thoma hereby objects to the following evidence
2 presented by Defendants VXN GROUP LLC; STRIKE 3 HOLDINGS, LLC;
3 GENERAL MEDIA SYSTEMS, LLC; and MIKE MILLER (together,
4 “Defendants”) in support of their Notice of Removal of Civil Action to the United
5 States District Court. Dkt. 1.

6 **1. Declaration of Aldrich Yap in Support of Defendant’s [sic] Notice**
7 **of Removal (Dkt. No. 1-1), ¶ 3**

8 **Material Objected To:** “Based on my review of VXN’s business records,
9 from its inception to May 8, 2023, VXN engaged 384 actors, including Plaintiff
10 (‘Putative Class Members’).”

11 **Grounds for Objection:** (a) Violation of the best evidence rule, as the
12 employment data and records received by Mr. Yap from which he purports to arrive
13 at this testimony are superior evidence but have not been produced (Fed. R. Evid.
14 1002); (b) failure to authenticate, because Defendants did not proffer evidence to
15 establish that the data was in a condition that created no suspicion about its
16 authenticity (Fed. R. Evid. 901(b)(8)); (c) inadmissible hearsay and double hearsay
17 (Fed. R. Evid. 801-802); and (d) improper legal conclusion (Fed. R. Evid. 704) as to
18 terms including “Putative Class Members.”

19 **2. Declaration of Belen Burditte in Support of Defendant’s [sic]**
20 **Notice of Removal (“Burditte Decl.”), ¶ 5(b)**

21 **Material Objected To:** “The average per-film rate paid to actors on Type-I
22 films during this time period was \$1,579.65.”

23 **Grounds for Objection:** (a) Violation of the best evidence rule; (b) failure to
24 authenticate, as Ms. Burditte does not specify what data she analyzed to arrive at
25 this conclusion as to average rate of pay during the specified time period; (c)
26 inadmissible hearsay (Fed. R. Evid. 801-802); and (d); speculative expert testimony
27 as to reliability of calculation method employed (Fed. R. Evid. 702; *U.S. v.*
28 *Hermanek*, 289 F.3d 1076, 1094 (9th Cir. 2002).

3. Burditte Decl., ¶ 6(b)

Material Objected To: “The average daily rate paid to actors on Type-I films during this time period was \$1,603.18.”

Grounds for Objection: (a) Violation of the best evidence rule; (b) failure to authenticate; and (c) speculative expert testimony as to reliability of calculation method employed (Fed. R. Evid. 702; *U.S. v. Hermanek*, 289 F.3d 1076, 1094 (9th Cir. 2002)); and (e) improper legal conclusion as to terms including “average daily rate.” (Fed. R. Evid. 704).

4. Burditte Decl., ¶ 7

Material Objected To: “Based on my review of VXN’s accounting records, Mackenzie Anne Thoma’s average daily rate paid of pay on Type-I films was \$4,875.00.”

Grounds for Objection: (a) Violation of the best evidence rule; (b) failure to authenticate; and (c) speculative expert testimony as to reliability of calculation method employed (Fed. R. Evid. 702; *U.S. v. Hermanek*, 289 F.3d 1076, 1094 (9th Cir. 2002)); and (e) improper legal conclusion as to terms including “average daily rate.” (Fed. R. Evid. 704).

Dated: July 21, 2022

BIBIYAN LAW GROUP, P.C.

/s/ Sarah H. Cohen

DAVID D. BIBIYAN

JEFFREY D. KLEIN

SARAH H. COHEN

Attorneys for Plaintiff, MACKENZIE ANNE THOMA, and on behalf of herself and all others similarly situated

CERTIFICATE OF SERVICE

MACKENZIE ANNE THOMA, a.k.a. KENZIE ANNE, v. VXN GROUP LLC
2:23-cv-04901-WLH (AGRx)
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd., Suite 500, Beverly Hills, California 90211.

I certify that on July 21, 2023, I electronically filed the following document(s) described as **PLAINTIFF'S OBJECTIONS TO EVIDENCE PROFFERED IN SUPPORT OF DEFENDANTS' NOTICE OF REMOVAL**, and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. Further, I certify that the foregoing documents were served by electronic transmission to the below referenced electronic e-mail address as follows:

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Attorneys for Defendants
VXN GROUP LLC; STRIKE 3
HOLDINGS, LLC; GENERAL MEDIA
SYSTEMS, LLC; and MIKE MILLER

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2023, at Beverly Hills, California.

/s/ Bryant Gamez

Bryant Gamez